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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,782	11/26/1999	JAMES MCKEETH	MICE-0089	6698

7590

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COE F MILES  
TROP PRUNER HU & MILES P C  
8554 KATY FREEWAY  
SUITE 100  
HOUSTON, TX 77024

EXAMINER

STEELMAN, MARY J

ART UNIT

PAPER NUMBER

2191

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/449,782

Applicant(s)

MCKEETH, JAMES

Examiner

Mary J. Steelman

Art Unit

2191

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-21 and 23-25.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).


10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

  
**WEI Y. ZHEN**  
**PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Applicant has argued, in substance, the following:

(A) Regarding independent claim 1, and similarly in independent claims 15 and 21, as Applicant has noted on page 7, 2nd paragraph: There is no suggestion in Livingston or in Buxton that the Registry Editor taught by Livingston can be substituted of the OLE container described in the cited passage of Buxton relied upon by the Office Action...doing so would clearly defeat the intended purpose of Buxton, to use OLE components to enable modification of registry entries.

Examiner's Response: Buxton suggested receiving commands via command line, which results in modifying the registry (system storage) and storage. Buxton failed to specifically disclose a "command line utility". Buxton suggests that the command line input (an object that consists of modifications to base component) is directed (DIR utility – a command utility) to storage, and the registry is edited (the REGEDIT utility- a command utility), but did not explicitly disclose 'command line utility'.

However Livingston explicitly disclosed (Page 315, second half of page, see "The DOS Version of the Registry Editor") using a command line utility to edit the registry. "It is possible to edit the Registry (utility to edit system storage) from the DOS command prompt (command line) . (emphasis added) The utility "REGEDIT" takes arguments (supplied by switches – See code segment, bottom of page 315, "The DOS Regedit syntax is as follows: As an example: /L:system Specifies the location of the System.dat file.) that specify the location of the System.dat file (/L: system), the User.dat file (/R: user), the file to import into the Registry (filename1: receiving an identifier), etc. (emphasis added) Using this command line utility, output is stored in the registry (system storage) at a location identified by the identifier. (emphasis added). It should be noted that DOS command prompt is used to enter a command to invoke a utility. Command-line utilities are an alternative way to start code execution. The functionality is the same, whether you start from graphical user interface or from a command line utility.

The following dictionary definitions further support the rejection:

As defined in Microsoft Computer Dictionary, 5th Edition, page 111, command line: A string of text written in the command language and passed to the command interpreter for execution. (emphasis added) As defined in Microsoft Computer Dictionary, 5th Edition, page 544, utility: A program designed to perform a particular function; the term usually refers to software that solves narrowly focused problems or those related to computer system management. (emphasis added)

(B) As Applicant has noted on page 8, 2nd paragraph, Buxton /Livingston fails to disclose a call of a command line utility, where the application provides an identifier in the call of the command line utility

Examiner's Response: As an example, the information related to the modification of a component (utility output) is stored at a registry key (a location identified by the identifier). Also, see col. 14, lines 20-28.

(C) Regarding dependent claim 9, as noted by Applicant on page 8, last paragraph: Buxton does not teach that providing the identifier indicating a shared system memory identifies a system clipboard memory.

Examiner's Response: Col. 11, line 6: "An FORMATETC...is an OLE data structure which acts in a generalized clipboard format..."

(D) Regarding dependent claim 11, as noted by Applicant on page 9, 2nd paragraph: Buxton does not teach receiving output from a command line utility through a subsequent command line output routine.

Examiner's Response: As an example, (col. 8, lines 28-29) "Data items within the registry are retrievable (receive output) via calls (from utility call) to the WIN32 APIs."

(E) Regarding dependent claim 12, as noted by Applicant on page 9, 3rd paragraph: There is no suggestion in Buxton of associating each line of command line utility output with a line identifier in the system storage.

Examiner's Response: As an example, (col. 3, lines 1-9) "Template storage with a means for indexing, including key information associated with the template. "...a memory having one or more locations, means for indexing one or more locations within the memory..." Also col. 13, lines 35-44, templates are stored with an enumerated decimal number: "Each template is stored in an ISTORE whose name is unique...and may have the form TEMPLEnnn, where nnn may be a decimal number."

(F) Regarding independent claim 23, as noted by Applicant on page 9, 4th paragraph: Buxton fails to teach invoking a call to pipe output of a second command line utility to a first command line utility.

Examiner's Response: Chaining utilities, piping the output of a second utility as input to a first utility is known in the art. Col. 8, lines 6-7 disclose the OLE libraries comprise the set of system level services (system utilities). As an example of system utilities (col. 20, lines 17-43) Buxton disclosed reading a sub-key from the registry, use the output to determine the real component CLSID, determine whether a valid certificate and license exist, pipe the relevant character string to a CLSID, etc.

(G) Applicant has argued (page 6, 2nd paragraph) that there is no suggestion to combine Buxton and Livingston. Applicant has argued (page 7, 3rd paragraph) that Office Action has used impermissible hindsight to achieve the claimed invention, where no motivation of suggestion exists to make the proposed combination.

Examiner's Response: In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, The Buxton reference provides a system for creating customized applications (col. 1, lines 27-29). Buxton recognized the need for modular software that can be simply and efficiently modified by an end user (col. 2, lines 4-15). As such, Buxton disclosed modifying / customizing OLE components and registering them in the system registry, to be recognized and used by an executing program (col. 2, lines 62-63). Livingston provided comments / a definition of the registry editor which is used to edit / modify the system registry. Modifications to the system registry are well known in the art. The introduction of Livingston documents what was "well known in the art" at the time of the invention.